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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/665,691.

09/19/2003

Mark Edward Simek

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06/30/2005

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EXAMINER

SHEDRICK, CHARLES TERRELL

ART UNIT

PAPER NUMBER

2687

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/665,691

Applicant(s)

SIMEK ET AL.

Examiner

Charles Shedrick

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/19/2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2,5-6,7,9-10,13-15,17, 20 are rejected under 35 U.S.C. 102(b) as being anticipated by **Oda (U.S. Patent # 5,703,392)**.

Consider **claim 1**, Oda clearly shows and discloses a mobile phone housing **100** including a front, right, left, and a rear side face with a width W between the left side face and the right side face (figure 1); a speaker **22** disposed in and outwardly directed from the front face on the front housing, a microphone **23** disposed in and outwardly directed from the housing (figure 1, Column 3 lines 24-32); the speaker and microphone are clearly spaced a distance D apart when the mobile phone is ready for taking or placing a call (figure 1); and

a display **19** disposed in and outwardly directed from the front face of the housing (figure 1, column 3 line 16); a phone number keypad including a plurality of telephone number input keys **3-12** to dial a phone number or place a call; and the telephone number input keys are located in a position other than centered on the front face with

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respect to the left side face and the right side face (figure 1, column 2 lines 22-26); the ratio of distance to width is greater than 4 as shown in figure 1 and figure 4.

Consider **claim 2**, and **as applied to claim 1 above**, Oda also shows and discloses a mobile phone wherein the telephone input keys are linearly aligned (figure 1, column 3, lines 6-10).

Consider **claim 5**, and **as applied to claim 1 above**, Oda also shows a left edge where the left side face and the front face intersect (Left top/bottom corner figure 1) and a right edge where the right side face and the front face intersect (right top/bottom corner figure 1), and the telephone input number keys are located on the front face adjacent one of the left edge and the right edge.

Consider **claim 6** and **as applied to claim 1 above**, Oda also shows in figure 2 and figure 3 a mobile phone that includes a thickness, and the ratio of the width to the thickness is less than 2.

Consider **claim 7** and **as applied to claim 1 above**, Oda also shows in Figure 1 ten respective telephone number input keys **3-12** for inputting numbers 0-9.

Consider **claim 9**, Oda clearly shows a mobile phone housing including a front, right, left, and a rear side face with a width between the left side face and the right side face (figure 1). A speaker **22**, a microphone **23**, a display **19**, a phone number keypad **3-12** carried by the housing (figure 1, Column 3 lines 24-32) and the speaker and microphone are clearly spaced a distance D apart when the mobile phone is ready for taking or placing a call (figure 1); and a speaker, a microphone, a display, a phone

number keypad positioned so that the ratio of the distance to width is greater than 4 as shown in figure 1 and 4.

Consider **claim 10**, and **as applied to claim 9 above**, Oda also shows and discloses a mobile phone wherein the telephone input keys are linearly aligned (figure 1, column 3, lines 6-10).

Consider **claim 13**, and **as applied to claim 10 above**, Oda also shows a left edge where the left side face and the front face intersect (Left top/bottom corner figure 1) and a right edge where the right side face and the front face intersect (right top/bottom corner figure 1), and the telephone input number keys are located on the front face adjacent one of the left edge and the right edge.

Consider **claim 14** and **as applied to claim 9 above**, Oda also shows in figure 2 and figure 3 a mobile phone that includes a thickness, and the ratio of the width to the thickness is less than 2.

Consider **claim 15** and **as applied to claim 10 above**, Oda also shows in figure 1 ten respective telephone number input keys for inputting numbers 0-9.

Consider **claim 17**, Oda clearly shows and discloses a mobile phone housing including a front, right, left, and a rear side face with a width W between the left side face and the right side face (figure 1); a speaker **22** disposed in and outwardly directed from the front face on the front housing, a display **19** disposed in and outwardly directed from the front face on the front housing, a microphone **23** disposed in and outwardly directed from the housing (figure 1, Column 3 lines 24-32); and a plurality of linearly aligned telephone number input keys **3-12** to dial a phone number or place a call; and

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the telephone number key pads are located in a position other than centered on the front face with respect to the left side face and the right side face (figure 1, column 2 lines 22-26).

Consider **claim 20**, and **as applied to claim 17 above**, Oda also shows a left edge where the left side face and the front face intersect (Left top/bottom corner figure 1) and a right edge where the right side face and the front face intersect (right top/bottom corner figure 1), and the telephone input number keys are located on the front face adjacent one of the left edge and the right edge.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3,4,11,12,18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Oda** in view of **Brandis (U.S. Design Patent #D497601S)**

Consider **claims 3,11, and 18** and **as applied to claims 1,10,and 17 above**, Oda does not show telephone number input keys located on one of the left side face and right side face. In the same field of endeavor, Brandis shows a mobile phone which has telephone number input keys on the left and right side face (figures 1,2,5,6 and 7). Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Oda to locate the input keys as taught by Brandis for the purpose of accommodating a smaller compact design with a more robust feature set via the input keys.

Consider **claims 4,12, and 19**, and **as applied to claims 1,10, and 17 above**, Oda does not show a left edge where the left side face and the front face intersect and a right edge where the right side face and the front face intersect, and the telephone number input keys are located on one of the left edge and the right edge. In the same field of endeavor, Brandis shows a left edge where the left side face and the front face intersect and a right edge where the right side face and the front face intersect, and the

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telephone number input keys are located on one of the left edge and the right edge (figures 5,6,and 7). Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Oda to locate the input keys as taught by Brandis for the purpose of accommodating a smaller compact design with a more robust feature set via the input keys.

Claims 8, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Oda** in view of **Sato (U.S. Patent #6,625,283 B1)**

Consider **claims 8 and 16**, and as applied to **claims 1 and 10** above **Oda** does not show five telephone number input keys for inputting the numbers 0-9, where each telephone number input key inputs two different numbers. In the same field of endeavor, **Sato** clearly shows five telephone number input keys **1-5** for inputting the numbers 0-9, where each telephone number input key inputs two different numbers (figures 1,2,5, and 6, column 5 line 56 – column 6 line 18). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify **Oda** to include five telephone number input keys for inputting the numbers 0-9, where each telephone number input key inputs two different numbers as taught by **Sato** for the purpose of saving space.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

P. Caps and Kim, which shows and discloses an electronic communication device including a front, right, left, and a rear side face with a width W between the left side face and the right side face.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Shedrick whose telephone number is (571)-272-8621. The examiner can normally be reached on 730am-430pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kincaid Lester can be reached on (571)-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Charles Shedrick
Art Unit 2687
06/21/05


6/27/05
LESTER G. KINCAID
PRIMARY EXAMINER